

USSN 10/018,290
Attorney Docket No: 3153.00108/PC10564A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Panaccio, et al.

Serial No. 10/018,290

Filed: 11/19/01

Group Art Unit: 1648

For: LAWSONIA DERIVED GENE AND RELATED OMPH POLYPEPTIDES, PEPTIDES AND PROTEINS AND THEIR USES

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Non-Fee Amendments

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This response is being submitted in response to an Office Action dated September 23, 2003, Paper No. 11.

Restriction to one of the following Groups was required under 35 U.S.C. § 121:

Group I, claims 1-21 and 39, drawn to an OmpH *Lawsonia spp.* Polypeptide;

Group II, claims 22-24 and 30-38, drawn to a polynucleotides encoding a *Lawsonia spp.* OmpH polypeptide and a first method of using such; and

Group III, claims 25-29, drawn to antibodies to *Lawsonia spp.* OmpH Polypeptides and a first method of using such.

With regard to the groups, Applicants provisionally elect with traverse, Group I, claims 1-21 and 39, which are drawn to an OmpH *Lawsonia spp.* Polypeptide for prosecution purposes. Applicants hereby conditionally withdraw claims 22-38 from prosecution, without prejudice, and request reconsideration of the restriction requirement.

Applicants traverse the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the United States Patent Office. All the groups of claims relate to therapeutic compositions for the treatment and/or prophylaxis of intestinal disease conditions in animals and birds caused or exacerbated by *lawsonia intracellularis* or similar related microorganisms. Specifically, the present invention provides a novel gene, derived from *lawsonia intracellularis*, which encodes an immunogenic polypeptide, or protein. Furthermore, all of the groups of the claims relate to the OmpH *Lawsonia spp.* Polypeptide. The claims encompass related polypeptides, antibodies thereof, and methods relating to the polypeptide. It is well accepted practice in the United States Patent Office to claim

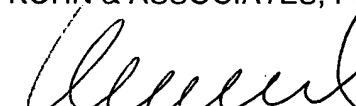
polynucleotides, immunogenic compositions, polypeptides, vaccines, vectors, and related methods that pertain to the same organism in the same application and without restriction. Accordingly, it is entirely reasonable, and would not present an undue burden upon the Examiner, for the claims of all of the groups to be maintained in a single application. It is respectfully submitted that prosecution of all of these groups of claims in a single application would be efficient, thereby promoting the grounds for the establishment of the restriction requirement practice. Hence, it is respectfully submitted that restriction should not be required and that Applicants have traversed the restriction requirement. However, as stated above, Applicants have provisionally elected the claims of Group I, directed towards claims 1-21 and 39, without prejudice. Additionally, Applicants provisionally withdraw claims 22-38, without prejudice, pending reconsideration of the restriction requirement.

The present application is now in condition for allowance, which allowance is respectfully solicited.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC

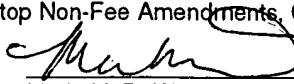

Kenneth I. Kohn, Reg. No. 30,955
30500 Northwestern Highway, Suite 410
Farmington Hills, Michigan 48334
(248) 539-5050

Date: October 22, 2003

CERTIFICATE OF MAILING

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Marie M. DeWitt